

## Message Text

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ACTION L-03

INFO OCT-01 IO-13 ISO-00 SP-02 AID-05 EB-07 NSC-05 CIEP-01

TRSE-00 SS-15 STR-04 OMB-01 CEA-01 CIAE-00 INR-07

NSAE-00 INRE-00 NSCE-00 SSO-00 USIE-00 OIC-02 COME-00

FRB-03 H-02 /072 W

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TO SECSTATE WASHDC IMMEDIATE 1405

INFO USMISSION USUN NEW YORK

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E.O. 11652: N/A

TAGS: ECOSOC EGEN

SUBJECT: 61ST ECOSOC - ILLICIT PAYMENTS

REF: GENEVA 5887

1. THERE FOLLOWS A PROPOSED MODIFIED VERSION OF TEXT OF US RESOLUTION AS REVISED BY USDEL IN EFFORT TO REFLECT CERTAIN CONCERNS AND PROPOSALS RAISED BY OTHER DELS DURING WEEK OF CONSULTATIONS. USDEL COMMENTS ON CHANGES CONTAINED IN PARA 3 BELOW. (OF COURSE, SOME PROBLEMS RAISED WITH TEXT CANNOT BE MET WITHOUT CHANGING BASIC ASPECTS OF OUR POSITION.) CONSULTATIONS HAVE NOT AS YET FOCUSED TO ANY LARGE EXTENT ON PARAGRAPH THREE OF RESOLUTION AND WE EXPECT THAT HERE, AS WELL A SELSEWHERE, DRAFTING CHANGES WILL BE NECESSARY. WOULD APPRECIATE DEPT COMMENTS NOT ONLY ON ACTUAL RESOLUTION TRANSMITTED BELOW BUT ALSO ANY THOUGHTS ON OTHER ALTERNATIVE LANGUAGE WHICH COULD MEET ISSUES RAISED IN PARAGRAPH THREE BELOW.

2. FOLLOWING IS MODIFIED USDEL TEXT:

BEGIN TEXT:

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RECALLING GENERAL ASSEMBLY RESOLUTION 3514 (XXX) WHICH, INTER ALIA, CONDEMNED ALL CORRUPT PRACTICES, INCLUDING BRIBERY, BY TRANSNATIONAL AND OTHER CORPORATIONS, THEIR INTERMEDIARIES AND OTHERS INVOLVED, IN VIOLATION OF THE LAWS AND REGULATIONS OF HOST COUNTRIES, AND CALLED UPON ALL GOVERNMENTS TO EXCHANGE INFORMATION AND FOR HOME GOVERNMENTS TO COOPERATE WITH HOST GOVERNMENTS TO PREVENT CORRUPT PRACTICES, INCLUDING BRIBERY;

NOTING THE DECISION OF THE COMMISSION ON TRANSNATIONAL CORPORATIONS AT ITS 2ND SESSION TO FORWARD TO THE ECONOMIC AND SOCIAL COUNCIL A PROPOSAL FOR AN INTERNATIONAL AGREEMENT TO ESTABLISH CERTAIN STANDARDS AND PROCEDURES RELATIVE TO INTERNATIONAL TRADE AND INVESTMENT TRANSACTIONS WITH GOVERNMENTS WITH THE AIM OF ELIMINATING CORRUPT PRACTICES IN THESE AREAS,

NOTING FURTHER THE COMMISSION'S RECOMMENDATION THAT THE COUNCIL CONSIDER THE MATTER OF CORRUPT PRACTICES ON A PRIORITY BASIS AND TAKE APPROPRIATE ACTION AT ITS SIXTY-FIRST SESSION,

AFFIRMING THAT CONSIDERATION AND ACTION BY THE COUNCIL OF THE MATTER OF CORRUPT PRACTICES SHOULD IN NO WAY INTERFERE WITH OR DELAY PRIORITY ACTION BY THE COMMISSION ON TRANSNATIONAL CORPORATIONS IN DEVELOPING A CODE OF CONDUCT,

1. DECIDES

(A) TO ESTABLISH A HIGH LEVEL INTERGOVERNMENTAL PREPARATORY COMMITTEE OF EXPERTS TO WORK WITH A VIEW TO CONDUCTING AN INTENSIVE EXAMINATION OF THE PROBLEM OF ILLICIT PAYMENTS AND ELABORATING BY THE MIDDLE OF 1977 A PRELIMINARY DRAFT OF AN INTERNATIONAL AGREEMENT ON MEASURES TO COMBAT ILLICIT PAYMENTS IN INTERNATIONAL ECONOMIC TRANSACTION WITH GOVERNMENTS,

(B) THAT THE PREPARATORY COMMITTEE SHALL BE COMPOSED OF 18 MEMBERS ELECTED BY THE ECONOMIC AND SOCIAL COUNCIL ON A BROAD AND REPRESENTATIVE GEOGRAPHICAL BASIS,

(C) THAT THE PREPARATORY COMMITTEE SHALL MEET IN 1976 AND AS NECESSARY IN 1977, THE SESSIONS TO BE OF SUFFICIENT DURATION TO PERMIT COMPLETION OF ITS TASK,

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(D) THAT THE CENTRE ON TRANSNATIONAL COOPERATIONS SHALL PROVIDE THE PREPARATORY COMMITTEE WITH SUCH SUPPORT AND ASSISTANCE AS THE PREPARATORY COMMITTEE MAY REQUIRE TO COMPLETE ITS TASK.

2. REQUESTS OTHER UNITED NATIONS AGENCIES AND BODIES, ESPECIALLY UNCITRAL TO RENDER SUCH ASSISTANCE TO THE PREPARATORY COMMITTEE AS IT MAY REQUEST.

3. DECIDES FURTHER

(A) THAT THE PREPARATORY COMMITTEE SHOULD SUBMIT A REPORT TO THE 63RD SESSION OF THE COUNCIL CONTAINING THE RESULTS OF THE PREPARATORY COMMITTEE'S EXAMINATION OF THE ISSUE AND A DRAFT INTERNATIONAL AGREEMENT ON MEASURES TO COMBAT ILLICIT PAYMENTS IN INTERNATIONAL ECONOMIC TRANSACTIONS WITH GOVERNMENTS;

(B) TO REVIEW THE AFOREMENTIONED REPORT AT ITS 63RD SESSION AND TO FORWARD A FINAL TEXT OF THE AGREEMENT TO THE GENERAL ASSEMBLY WITH THE RECOMMENDATION THAT THE ASSEMBLY AT ITS 32ND SESSION TAKE ALL DECISIONS AND ACTIONS NECESSARY FOR THE OPENING OF SIGNATURE OF A CONVENTION ON MEASURES TO COMBAT ILLICIT PAYMENTS IN INTERNATIONAL ECONOMIC TRANSACTIONS WITH GOVERNMENTS. END TEXT.

3. USDEL COMMENTS: (1) - TITLE - SUGGESTION MADE THAT USE OF TERM "CONVENTION" IN TITLE IS TOO FORMAL AT THIS POINT AND THAT "AGREEMENT" OR "INSTRUMENT" WOULD BE PREFERABLE. USDEL HAS NO PROBLEM WITH THIS, ESPECIALLY IF WE CAN MAINTAIN USE OF TERM "CONVENTION" IN PARAGRAPH THREE B OF RESOLUTION.

(2) - TITLE - SEVERAL DELS HAVE BROUGHT TO OUR ATTENTION FACT THAT USE OF PHRASE "TRADE AND INVESTMENT" IN TITLE OF RESOLUTION AND OF CONVENTION ITSELF HAS CAUSED WIDESPREAD CONFUSION IN THAT TERM "INVESTMENT" MAKES IT APPEAR THAT CONVENTION WOULD COVER BROAD RANGE OF INVESTMENT ISSUES. WE HAVE EXPLAINED THAT "INVESTMENT" IS USED ONLY TO INDICATE THAT CONVENTION WOULD COVER ILLICIT PAYMENTS TO A GOVERNMENT OFFICIAL TO INFLUENCE DECISIONS REGARDING AN INVESTMENT, SUCH AS WHETHER OR NOT TO AUTHORIZE A PARTICULAR INVESTMENT. WHETHER LIMITED OFFICIAL USE

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THE NEW WORD "ECONOMIC" WILL BE PERCEIVED AS ELIMINATING PROBLEM OR MERLY WIDENING PROBLEM CAN ONLY BE DETERMINED WHEN WE SIT DOWN AGAIN WITH G-77 REPS TO DISCUSS REVISING US RESOLUTION.

(3) - FIRST PREAMBULAR PARA OF ORIGINAL TEXT - IRANIAN DELEGATE, WHO IS GENERALLY CONSTRUCTIVE, ASKED THAT THIS PARAGRAPH BE ELIMINATED AS TOO SENSITIVE. WE DO NOT FULLY UNDERSTAND THIS BUT SEE NO HARM IN ITS DELETION.

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(4) - FIRST PREAMBULAR PARA OF TEXT ABOVE - SUGGESTION HAS BEEN MADE THAT RESOLUTION SHOULD EMPHASIZE TO EXTENT POSSIBLE INTERGOVERNMENTAL COOPERATION. SUITABLE LANGUAGE FROM RESOLUTION 3514 HAS BEEN ADDED.

(5) - FOURTH PREAMBULAR PARA OF TEXT ABOVE - PROBLEM MOST OFTEN RAISED BY G-77 REPS IS THAT OF INSURING THAT WORK ON ILLICIT PAYMENTS DOES NOT HINDER WORK ONGEDE OF CONDUCT. FEELING WAS THAT PREAMBULAR PARAGRAPH ON THIS POINT WOULD BE EXTREMELY HELPFUL.

(6) - FIRST OPERATIVE PARA OF ORIGINAL US TEXT - FRG AND

SOME G-77 MEMBERS WERE CONCERNED THAT REFERENCE TO "STANDARDS AND PROCEDURES" WAS AIMED AT ESTABLISHING COMMON DEFINITION OF BRIBERY AND OTHER CRIMINAL ACTIONS. SOME FELT PARAGRAPH WAS SUPERFLUOUS AND PRE-JUDGMENTAL. WE SEE NO PROBLEM IN DELETING

THIS PARAGRAPH.

(7) - OPERATIVE PARA 1 (A) OF TEXT ABOVE - SUGGESTION HAS BEEN MADE THAT TERM "SPECIAL PREPARATORY COMMITTEE" WAS TOO FORMAL.  
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WE MAY EVENTUALLY HAVE TO FALL BACK TO TERM "WORKING GROUP".

THIS WOULD APPEAR TO BE REASONABLE, ESPECIALLY IN LIGHT OF CHANGE PROPOSED IN SUBPARAGRAPH (8) BELOW. WORDING HAS ALSO BEEN CHANGED TO MAKE CLEARER FACT THAT DELEGATES WOULD BE INSTRUCTED.

(8) - OPERATIVE PARA 1 (A) OF TEXT ABOVE - MAIN PROBLEM RAISED BY WESTERN DELEGATIONS WAS ABSENCE OF ANY STUDY BEFORE STARTING DRAFTING OF CONVENTION. WE SEE NO PROBLEM IN ADDING LANGUAGE INDICATING THAT PROBLEM WILL BE EXAMINED BY THE GROUP DRAFTING THE CONVENTION. AUSTRALIAN DEL THOUGHT SUCH LANGUAGE WOULD BE MOST USEFUL. WE BELIEVE IT WOULD ALSO PROVIDE SOP TO FRG AND HELP THEM SAVE FACE.

(9) - OPERATIVE PARA 2 OF TEXT ABOVE - AS INDICATED IN REFTEL, BRAZIL AND POSSIBLY OTHER LATINS HAVE SPECIAL ATTACHMENT TO UNCITRAL.

(10) - OPERATIVE PARA 3 (A) OF TEXT ABOVE - SEE DISCUSSION IN SUBPARAGRAPH (8) ABOVE. ABRAMS

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** AGREEMENT DRAFT, BRIBERY, CORRUPTION, RESOLUTIONS, MULTINATIONAL CORPORATIONS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 23 JUL 1976  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** saccheem  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
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**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
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**Original Previous Classification:** n/a  
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**Reference:** 76 GENEVA 5887  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** saccheem  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 10 MAY 2004  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <10 MAY 2004 by buchant0>; APPROVED <22 SEP 2004 by saccheem>  
**Review Markings:**

Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
04 MAY 2006

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** 61ST ECOSOC - ILLICIT PAYMENTS  
**TAGS:** EGEN, US, ECOSOC  
**To:** STATE  
**Type:** TE  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006